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7 Packaging Corporation of America

8  
9 **UNITED STATES DISTRICT COURT**  
10 **EASTERN DISTRICT OF WASHINGTON**

11 AARON E. SPOON and  
12 MERLINE SPOON, husband  
13 and wife,

14 vs.  
15 Plaintiffs,

16  
17 **PACKAGING**  
18 **CORPORATION OF**  
19 **AMERICA; KONE, INC.,**

20  
21 Defendants.

22 No. 21-cv-05057-SAB

23  
24 **DEFENDANT PACKAGING**  
25 **CORPORATION OF**  
26 **AMERICA'S ANSWER AND**  
27 **AFFIRMATIVE DEFENSES**

28 COMES NOW Packaging Corporation of America (the "Answering  
Defendant"), by and through its attorneys, and for Answer to Plaintiff's  
Complaint, admits, denies, and alleges as follows:

1. The Answering Defendant admits paragraphs I., II., III., and  
IV.

DEFENDANT PACKAGING  
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AFFIRMATIVE DEFENSE - 1

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1       2. In answer to paragraph V., the Answering Defendant admits  
2 that Kone Inc. ("Kone") provided advice and consultation to the  
3 Answering Defendant concerning its elevators and elevator operations.  
4  
5 As to the remaining allegations of paragraph V, the Answering  
6 Defendant is without sufficient information to form a belief as to the  
7 truth of the allegations, and, therefore, denies the same and leaves  
8 Plaintiffs to their burden of proof.  
9  
10

11       3. In answer to paragraph VI, the Answering Defendant admits  
12 that the accident at issue took place in Walla Walla County,  
13 Washington. The Answering Defendant admits that prior to the case  
14 being removed to federal court, jurisdiction was initially in Walla Walla  
15 County Superior Court.  
16  
17

18       4. In answer to paragraph VII, the Answering Defendant  
19 admits that Plaintiff Aaron Spoon ("Spoon") was assisting with the  
20 removal of items from a freight elevator. The Answering Defendant  
21 admits that the elevator doors closed, and Spoon was injured. The  
22 Answering Defendant denies all other allegations contained in  
23 paragraph VII.  
24  
25

1       5. In answer to paragraph VIII, the Answering Defendant  
2 admits that at the time of the accident, Spoon was not employed by the  
3 Answering Defendant. As to the allegation concerning Washington's  
4 worker's compensation laws, this allegation sets forth a question of law  
5 to which no response is required. As to the remaining allegations  
6 contained in paragraph VIII, the Answering Defendant is without  
7 sufficient information to form a belief as to the truth of the allegations,  
8 and, therefore, denies the same and leaves Plaintiffs to their burden of  
9 proof.

10      6. In answer to paragraph IX, the Answering Defendant is  
11 without sufficient information to form a belief as to the truth of the  
12 allegations, and, therefore, denies the same and leaves Plaintiffs to  
13 their burden of proof.

14      7. The Answering Defendant admits paragraph X.

15      8. The Answering Defendant denies all allegations contained in  
16 paragraph XI, including subparts thereto.

17      9. In answer to paragraph XII., the Answering Defendant  
18 admits that Kone was negligent.

19      10. The Answering Defendant denies paragraph XIII.

11. In answer to paragraph XIV, the Answering Defendant is without sufficient information to form a belief as to the truth of the allegations, and, therefore, denies the same and leaves Plaintiffs to their burden of proof.

12. The Answering Defendant denies paragraph XV.

BY WAY OF FURTHER ANSWER to Plaintiffs' Complaint and as  
AFFIRMATIVE DEFENSES THERETO, the Answering Defendant, to  
the extent established by the evidence, alleges as follows:

1. Plaintiffs fail in whole or in part to state a claim or cause of action for which relief may be granted;
2. Plaintiffs' injuries/damages, if any, were not the result of any negligence or fault on the part of the Answering Defendant;
3. Plaintiffs' injuries/damages, if any, were proximately caused in whole or in part by Defendant Kone;
4. Plaintiffs' injuries/damages, if any, were proximately caused in whole or in part by a party over whom the Answering Defendant has no authority or control;

- 1 5. Plaintiffs' injuries/damages, if any, may have been sustained or
- 2 increased and aggravated by Plaintiffs' failure to mitigate their
- 3 damages;
- 4
- 5 6. Plaintiffs' injuries/damages were caused in whole or in part by
- 6 Plaintiff Aaron Spoon's own negligence;
- 7
- 8 7. If liability is determined, all at fault parties should be
- 9 apportioned fault pursuant to applicable Washington statutes
- 10 including, but not limited to, RCW 4.22.070; and
- 11
- 12 8. The Answering Defendant reserves the right to amend its
- 13 Answer to allege additional affirmative defenses as further
- 14 discovery is completed.
- 15

16 WHEREFORE, having fully answered Plaintiffs' Complaint, the  
17 Answering Defendant prays as follows:

- 19 1. That Plaintiffs' Complaint be dismissed with prejudice;
- 20
- 21 2. For costs and disbursements incurred herein;
- 22
- 23 3. For attorney's fees as allowed by law; and
- 24
- 25 4. For such other and further relief as the Court deems just and  
equitable.
- 26

1 Submitted this 15 day of April, 2021,

2 **KSB LITIGATION, P.S.**

3

4 By: s/ William J. Schroeder

5 William J. Schroeder

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7 Spokane, Washington, 99201

8 william.schroeder@KSBLit.legal

9 Attorneys for Defendant

10 Packaging Corporation of America

## **CERTIFICATE OF SERVICE**

I hereby certify that on this day of April 15, 2021, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF System, which in turn automatically generated a Notice of Electronic Filing (NEF) to all parties in the case who are registered users of the CM/ECF system. The NEF for the foregoing specifically identifies recipients of electronic notice. I hereby certify that I have mailed by United States Postal Service the document to the following non-CMECF participants:

[none]

*/s/ William J. Schroeder*

William J. Schroeder

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